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Report of the Secretary-General on Children and Armed Conflict in the Democratic Republic of the Congo

Summary

The present report is the fourth report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo. It is submitted to the Security Council pursuant to its resolutions 1612 (2005) and 1882 (2009) and covers the major developments related to the situation of children and armed conflict in that country since his last report. The reporting period is from October 2008 to December 2009, and the information contained therein has been gathered, verified and compiled by the country Task Force on Monitoring and Reporting within the framework of Security Council resolution 1612 (2005).

The report shows that all parties to the conflict have been responsible for grave violations against children during the reporting period. The recruitment and use of children has continued, and patterns of sexual violence against children have been identified. The report also highlights the role of the Lord's Resistance Army (LRA) in committing grave violations against children and stresses the importance of a regional coordinated strategy that involves the United Nations and neighbouring countries.

The report notes concerns in relation to joint military operations against the Forces démocratiques de libération du Rwanda (FDLR) and LRA, which have put children at high risk and made them more vulnerable to forced displacement, recruitment and use, sexual violence, killing and maiming. The report strongly emphasizes the importance of standard operating procedures that aim at protecting children and of strict application of the conditionality policy that guides the support of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) to the Forces armées de la République démocratique du Congo (FARDC).

The report also focuses on progress that has been made during the reporting period. In a few months in 2009, more children were released from armed groups than during the whole of 2008. The national strategy against sexual violence has been adopted and has reached the early stages of its implementation. Finally, the report notes that, despite rampant impunity, measures are slowly but steadily being put in place to hold perpetrators of grave violations against children accountable.

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I. Introduction

1. The present report, submitted pursuant to Security Council resolutions 1612 (2005) and 1882 (2009), covers the major developments related to the situation of children and armed conflict in the Democratic Republic of the Congo since my previous report dated 10 November 2008 (S/2008/693). The information in the present report covers the period from October 2008 to December 2009 unless otherwise specified and has been gathered, verified and compiled by the country Task Force on Monitoring and Reporting within the framework of Security Council resolution 1612 (2005). The report focuses on the areas of the country in which armed conflict is ongoing and where the security situation remains unstable. Access to some of these areas for monitoring purposes remains limited.

II. Political, military and social developments in the Democratic Republic of the Congo

2. On 16 January 2009, Bosco Ntaganda and 10 other high-ranking members of the Congrès national pour la défense du peuple (CNDP) issued a declaration announcing the end of hostilities between CNDP and the Forces armées de la République démocratique du Congo (FARDC) and the joining of forces to combat the Forces démocratiques de libération du Rwanda (FDLR). Laurent Nkunda was arrested on 22 January 2009 by the Rwandan authorities on Rwandan territory. He is currently under house arrest at an undisclosed location in Rwanda. Since then, the Government of the Democratic Republic of the Congo has repeatedly asked for his extradition. Negotiations are still ongoing with the Rwandan authorities.

3. The political developments leading up to the split in CNDP, together with the declaration of cessation of hostilities and the forming of a coalition against FDLR, paved the way for the fast-track integration process of most armed groups into the Congolese national army, which was launched on 28 January 2009 in North Kivu and subsequently in South Kivu.

4. In February 2009, following the political rapprochement between Rwanda and the Democratic Republic of the Congo, a three-week joint military operation was led by FARDC and the Rwandan Defence Forces (RDF) against FDLR. Subsequently, in March 2009, FARDC launched Operation Kimia II, with a separate command structure established especially for the operation and with limited support from the military element of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC).

5. On 23 March 2009 in Goma, CNDP and other armed groups of North and South Kivu, except FDLR, signed a peace agreement with the Government of the Democratic Republic of the Congo that, among other things, foresaw the end of hostilities, the conversion of armed groups into political parties, the return of displaced persons and refugees and the integration of leaders of armed groups into the national political life. It should also be noted that tensions quickly arose within the newly integrated FARDC units and that some elements, like Mai-Mai leader Yakutumba, stepped back from the integration process in October 2009. Others, including the Alliance des patriotes pour un Congo libre et souverain (APCLS), denounced what they saw as the preferential treatment of CNDP and the Patriotes résistants congolais (PARECO) during the integration process. Similarly,

non-integrated PARECO factions seemed increasingly apprehensive about the ongoing peace process, and some factions allegedly started to collaborate with FDLR and threatened to leave FARDC. At the end of June 2009, PARECO leader General Lafontaine issued a communiqué rejecting the integration process, claiming that it provided preferential treatment of CNDP.

6. On 7 May 2009, following the peace agreement and the January 2008 Goma Conference on Peace, Security and Development for the Provinces of North and South Kivu, the President of the Democratic Republic of the Congo promulgated a law granting amnesty to militias in the east of the country. The law applies to Congolese living in the Democratic Republic of the Congo or abroad and covers acts of war and insurrection committed in North and South Kivu Provinces from June 2003 to the date of the signing. It does not cover genocide, war crimes and crimes against humanity, nor does it preclude reparations.

7. On 1 November 2009, MONUC suspended its logistical support to one FARDC unit participating in Operation Kimia II. The alleged major human rights violations committed by this unit between May and September 2009 in the Lukweti area (North Kivu) forced MONUC to apply its conditionality policy related to the respect of international humanitarian and human rights law as stated in Security Council resolution 1856 (2008). Kimia II operations officially ended on 31 December 2009.

A. The Kivus

8. With the fast-track integration process, CNDP, PARECO and other armed group elements were merged with existing units of FARDC and often immediately sent to combat against FDLR. In South Kivu, a similar operation later took place until 8 July 2009. A total of 12,074 armed group elements were integrated into the FARDC during the fast-track integration process in the Kivus.

9. Kimia II operations succeeded in consolidating and ensuring control of strategic locations from which FDLR had been dislodged during the FARDC/RDF joint operations in February 2009. In response, FDLR resorted to ambush tactics and committing reprisal attacks against civilians for alleged collaboration with FARDC.

10. The humanitarian situation deteriorated as a result of military operations and human rights violations. According to the Office for the Coordination of Humanitarian Affairs, more than 675,000 people were displaced more than once in North Kivu in 2009. A total of 350,000 newly internally displaced persons were registered during 2009, bringing the total number of internally displaced persons in the Kivus to nearly one million. In South Kivu, about 580,000 persons were displaced by the end of 2009; many of them had been displaced multiple times.

11. Despite its integration into FARDC, CNDP seems to have maintained a parallel chain of military and political command, in particular in the territories of Masisi and Rutshuru. In late 2009, reports indicated the desertion of several CNDP cadres from FARDC units in North Kivu. Bosco Ntaganda, together with other leading ex-CNDP commanders, criticized what they described as a failure of the Government of the Democratic Republic of the Congo to implement the political aspects of the 23 March agreements.

B. Haut and Bas Uélé (Oriental Province)

12. In the northern part of Oriental Province, in particular in the district of Haut Uélé, the situation deteriorated dramatically after September 2008, with unprecedented attacks against the civilian population carried out by the Lord's Resistance Army (LRA). From 24 to 28 December 2008, LRA attacked Faradje and nine surrounding villages and 13 towns around Doruma, looting villages and killing and abducting hundreds in the so-called "Christmas massacres". Attacks by LRA on civilians continued in 2009, though on a smaller scale. The LRA seems to have also spread into Bas Uélé since March 2009. The trend of LRA attacks decreased after October 2009, coinciding with the reported movement of LRA elements and dependants to the Central African Republic and southern Sudan. As a result, the security situation improved in some areas. Nevertheless, a number of alleged LRA attacks were still reported throughout December 2009. Although the slightly improved security situation at the end of 2009 led to the return of more than 35,000 people to Dungu and Faradje territories, 270,000 people were still displaced in Haut and Bas Uélé by the end of the reporting period. Humanitarian access to affected populations beyond the Dungu area remains a challenge, owing to minimal infrastructure and unstable security conditions.

13. Following the December 2008 attacks in Haut Uélé, the Government of the Democratic Republic of the Congo launched Operation Lightning Thunder against LRA, along with the Ugandan People's Defence Forces (UPDF) and the Sudan People's Liberation Army (SPLA). The operation ended in March 2009. While several LRA sites were destroyed, including the main LRA camp in the Democratic Republic of the Congo, and some LRA elements were captured or killed, the main commanders of LRA, including Joseph Kony, were not apprehended. The group dispersed, but continued to show significant capacity to commit grave violations against local populations during the course of 2009, as described above. Following the deployment of several FARDC battalions after the joint operation, LRA extended its attacks towards the west and south of the province, where there was less of a presence of FARDC and MONUC.

14. Launched on 27 April 2009, Operation Rudia II, led by FARDC and supported by MONUC with the cooperation of UPDF, aimed at containing LRA and enhancing protection of the population. As a result, important commanders of LRA were killed, including its third in command, Caesar Acellam. On 3 November 2009, Colonel Charles Arop, the commander responsible for the 2008 "Christmas massacres", surrendered.

III. Grave violations against children: incidents and trends

15. Compared with the previous reporting period, there has been a general increase in the number of grave violations committed against children by all parties to the conflict.

16. Military operations conducted by FARDC had a heavy toll on civilians, both in terms of reprisal attacks by armed groups and of FARDC misconduct. Newly integrated FARDC units were reportedly responsible for a significant number of violations, in particular the recruitment and use of children, including for military purposes, forced labour and sexual violence.

A. Recruitment of children in armed forces and groups

17. In total, 1,593 cases of child recruitment (1,519 boys and 74 girls) were documented during the reporting period, including 1,235 in 2009. This represents a slight decrease compared with the whole of 2008, for which 1,522 recruitments were documented. Out of the total number of child recruitments documented during the reporting period, 42 per cent were allegedly carried out by FARDC, 26 per cent by various Mai-Mai groups, 16 per cent by PARECO, 10 per cent by the different FDLR factions and 6 per cent by CNDP. As a result of the ad hoc and spontaneous nature of the integration process, the monitoring and documentation of cases have been significantly impeded. Therefore, the available figures might not reflect the actual extent of child recruitment.

18. Most children who had separated from armed forces and groups reported that they had been recruited two or more times. Follow-up visits with children formerly associated with armed forces and groups after family reunifications indicated that children previously released were even more vulnerable and faced a constant threat of re-recruitment, particularly if conflict in their home community was ongoing or erupted again. Some children had been re-recruited shortly after their reunification. During the reporting period, MONUC documented 594 new cases of child recruitment (582 boys and 12 girls) by FARDC throughout the Democratic Republic of the Congo, mostly in the east but also in Katanga, Kasai Occidental, Kasai Oriental and Oriental Provinces. Children released during the reporting period declared they had been used as combatants, escorts, cooks and porters. The children, mainly girls, also reported that they had been sexually abused.

19. Despite the significant number of children released during this process, there is evidence that confirms that hundreds of children associated with armed groups were also integrated into FARDC unnoticed or were hidden by their commanders, especially in North Kivu, where ad hoc integration took place without coordination with or supervision by child protection actors. The FARDC, which had stopped systematically recruiting children in 2007 and 2008, showed a dramatic increase in the number of children within its ranks in 2009. With little control over some of the new elements in the chain of command, FARDC not only accounted for the highest number of children recruited during the reporting period but was also the only armed entity for which an increase in child recruitment was documented. By contrast, all the other groups showed a downward trend in child recruitment, with the transfer of their children to FARDC. The integrated brigades were allegedly responsible for about 78 per cent of the recruitment of children in FARDC.

20. After integration into FARDC, children were often transferred to areas far from their place of recruitment, to units taking part in Kimia II operations or to participate in military operations in Haut Uélé. This phenomenon had also been experienced on a lesser scale during the *mixage* (integration) process of 2007. For example, a total of 64 children were documented in the Kamina military instruction centre during the reporting period. Reports indicate that the Presidential Guard recruited at least 35 of them before and during their deployment in Haut Uélé. In October 2009, 24 boys between the ages of 14 and 17 were separated from the Kamina centre. They had been recruited in several localities of Katanga, Maniema and Oriental Provinces and Kinshasa, and brought to Kamina to be trained as soldiers. Child protection actors experienced several obstructions and sometimes

blunt refusals from FARDC to access those sites and identify children for their release.

1. The Kivus

21. The Kivus accounted for 92 per cent of the recruitments of children documented during the reporting period (82 per cent in North Kivu, 10 per cent in South Kivu). Documented cases indicate an increase in recruitment by Mai-Mai groups, PARECO and CNDP before the fast-track integration process. Many commanders reportedly tried to negotiate higher ranks during the integration on the basis of the number of people under their command. For example, a 17-year-old child allegedly recruited by Mai-Mai Shikito in April 2009 in South Kivu reported that Mai-Mai Shikito had been inciting young people to join them in order to reach the integration centre with as many elements as possible before integration into FARDC.

22. During the early stages of the process, child protection actors were able to access the few formal integration sites and to prevent the integration of a large number of children into FARDC. Later, only ad hoc screening of some of the sites was possible, because of the unplanned and spontaneous nature of the process on the one hand and the reluctance of some commanders to release their children on the other hand. This led to the integration of a substantial number of children into the national armed forces. For example, a 15-year-old boy allegedly recruited in January 2006 by PARECO in North Kivu and used in combat against CNDP in 2007 and against FDLR in February 2009 reported that he had been hidden several times by his commander in April 2009, when MONUC was screening the integration process of PARECO elements. He had then been integrated by his commander into the FARDC 14th Integrated Brigade and taken to South Kivu.

23. There have also been reports of new recruitment by FARDC carried out after the integration process during Operation Kimia II. Statistics show that ex-CNDP elements within the integrated FARDC are responsible for the highest number of recruitments, followed by ex-PARECO elements. In most of these cases, especially in Masisi and Rutshuru territories, children were threatened and re-recruited by their former commanders, despite having been separated. For instance, three boys between 15 and 16 years of age previously associated with CNDP reported that on 28 October 2009 they had been re-recruited by their former commander, now a FARDC colonel and deputy sector commander of Operation Kimia II. They had been told they would be sent to combat soon, but in December 2009 they had escaped and approached a MONUC base for protection.

24. The various FDLR factions continued to recruit to more or less the same extent during the reporting period, but more children were released from FDLR during the reporting period than were newly recruited.

2. Oriental Province

25. In Ituri in 2009, 21 cases of new recruitment of children (13 boys and 8 girls) were attributed to the Forces de résistance patriotique en Ituri (FRPI), which was not listed in my previous annual report on children and armed conflict (A/63/785-S/2009/158 and Corr.1) as being among those parties that recruited or used children in situations of armed conflict. Although no cases of recruitment were exclusively attributed to the Front populaire pour la justice au Congo (FPJC), children released

often mentioned both FRPI and FPJC, owing to the overlap between the two groups. Both groups continued to create insecurity and still represent a threat of recruitment of children in Ituri, particularly in South Irumu territory.

26. For example, a 15-year-old boy was allegedly recruited in mid-2009 by an element of the FRPI/FPJC in Thenkele (Irumu territory). He received some military training in handling an AK-47 and was subsequently used as a hunter for the group's meat supply. He escaped in January 2010 and was handed over to child protection partners after reportedly having been detained for several days by FARDC.

27. In the provinces of Haut Uélé and Bas Uélé, LRA continued to recruit and use children, including for forced labour and sexual exploitation. The documentation of cases has been significantly impeded by the difficulty in accessing these remote areas.

3. North Katanga and other non-conflict-affected areas

28. Insecurity has been reported in North Katanga as a consequence of the ongoing military operations in South Kivu and the alleged infiltration of FDLR into Maniema and North Katanga.

29. In 2009, 56 cases of recruitment of children were documented in North Katanga, in contrast with 2008, when no child recruitment was reported. Most of these recruitments allegedly occurred in March and April 2009 within the framework of recruitment campaigns by the Government of the Democratic Republic of the Congo. Similarly, nine cases of child recruitment were documented in Kasai Occidental and Kasai Oriental. It is believed that the main reason for child recruitment in non-conflict-affected areas is the high recruitment quotas set out for FARDC commanders.

30. Some children have been transferred to integration and instruction centres, such as Kamina in Katanga or Kitona in Bas-Congo. Child protection actors have repeatedly been refused access to FARDC camps for the purpose of screening and verification of children among FARDC units, or the release of children has been refused by commanders.

B. Killing and maiming of children

31. During the reporting period, an increase in the number of killings and maimings of children was registered, mainly in zones of active military operations. A total of 54 killings and 22 cases of maiming were documented during the reporting period. The number of killings tripled and the number of maimings doubled in 2009 compared with 2008. The victims (47 boys and 29 girls) came from all age groups. Oriental Province accounted for the highest number of incidents (33 in Haut Uélé and 4 in Ituri district), followed by 28 incidents in North Kivu, 8 in South Kivu and 3 in Katanga.

32. The Lord's Resistance Army was reportedly responsible for a significant number of the incidents documented (26 killings and 4 cases of maiming). Nine killings and 11 cases of maiming were attributed to FARDC elements. Children have been killed during crowd control activities, as a result of ill-discipline among FARDC elements, and in some cases as a result of crossfire during military operations.

33. For example, on 12 October 2009, a 13-year-old boy was killed and a 2-year-old boy injured by FARDC elements of the 111th Brigade, Second Battalion, who were engaged in a firefight with FDLR and PARECO elements at Muhangi, Lubero territory, in North Kivu. Similarly, a 10-year-old boy was seriously injured on 7 September 2009 when a group of approximately 80 FARDC soldiers raided the village of Nindja-Chulwe (South Kivu) in search of FDLR elements. FARDC fired indiscriminately and reportedly killed three civilians, including one 15-year-old boy, and wounded three others, including a 2-year-old boy.

34. Ten killings and three cases of maiming by FDLR, three killings by PARECO and one killing by FRPI were documented during the reporting period. Officers of the Police nationale congolaise allegedly killed two children and maimed one child, while three killings and three cases of maiming by unidentified armed groups were reported.

C. Rape and sexual violence

35. During the reporting period, widespread sexual violence remained a grave concern countrywide, in particular in provinces affected by armed conflict. The United Nations Population Fund (UNFPA) reported a total of 12,838 cases of sexual violence (against adults and children) in the Kivus and Oriental Province, half of which (6,379) were allegedly perpetrated by armed elements.

36. Of this total, 4,572 cases (35.6 per cent) were reportedly committed against children: 1,472 cases in Oriental Province, 2,063 in North Kivu and 1,037 in South Kivu. Among child victims, 13.3 per cent were reportedly younger than the age of 10. Of all cases of sexual violence perpetrated against children, a third (1,461) were attributed to armed elements. These include elements from FARDC, including newly integrated units; FDLR; FRPI; the Front des nationalistes et intégrationnistes (FNI); Mai-Mai groups in North and South Kivu, including PARECO; and LRA.

37. Girls remained the main victims of sexual violence. For example, a 15-year-old girl was allegedly raped on 25 June 2009 by a FARDC colonel active in Operation Kimia II in Hombu Sud (Kalehe territory, South Kivu) on her way back from school. In August 2009, after the girl had told the FARDC colonel that she was pregnant, he forced her to follow him when he was redeployed to Baraka (Fizi territory, South Kivu). In December 2009, the girl escaped and obtained assistance from a protection partner. Despite advocacy by MONUC with the military prosecutor, the alleged perpetrator has not been arrested.

38. Cases of sexual violence against boys have also been reported. For example, the Child Protection Section of MONUC documented two cases of sexual violence against boys (7 and 10 years old, both in South Kivu). In both cases, FARDC soldiers were subsequently arrested.

D. Abductions

39. A substantial increase in the number of abductions of children was documented compared with the preceding reporting period. From October 2008 to December 2009, 220 children (124 boys and 96 girls) were reportedly abducted by LRA. Children reported that they had been used primarily for fighting and forced

labour and had been subjected to sexual violence. LRA continues to systematically abduct children during attacks against towns and villages; other community members are often killed on the spot.

40. Cross-border abductions by LRA between the Democratic Republic of the Congo, South Sudan and the Central African Republic have also been documented. For example, one 11-year-old girl and one 14-year-old boy were reportedly abducted in 2008 by LRA in the Central African Republic and taken to the Democratic Republic of the Congo, where they were used for forced labour. They were both able to escape in June 2009 during a FARDC attack against LRA in Haut Uélé.

41. In 2009, seven cases of abduction by various FARDC brigades, four in South Kivu and three in Oriental Province, were reported. Twelve other cases were also attributed to FRPI and one case to FNI.

E. Attacks against schools and hospitals

42. A substantial increase compared with the previous reporting period was observed in attacks on schools and hospitals, which included 51 documented attacks against schools and 10 against hospitals. Attacks on schools often corresponded with reports of child recruitment.

43. A total of 27 attacks on schools and hospitals were perpetrated by LRA in December 2008 (22 on schools and 2 on hospitals) and in January 2009 (3 schools). All the attacks occurred in the territory of Faradje and Dungu in Oriental Province.

44. Clashes between FRPI and FARDC in March 2009 in Ituri district also led to attacks against schools and hospitals. Seven attacks involved the looting of schools and health institutions. These have been directly attributed to FARDC.

45. Three schools in the locality of Ntoto, in Walikale territory in North Kivu, were also attacked and looted twice in July 2009 and again on 4 September 2009 by FARDC elements temporarily deployed from Walikale to Ntoto. Teachers and students reported that schoolbooks and stationery were looted, and that blackboards and desks were burned. The lootings of 4 September 2009 were allegedly perpetrated by a battalion of the FARDC 212th Integrated Brigade. On 4 September 2009, the Ntoto local hospital was also looted and burned.

F. Denial of humanitarian access

46. Although security improved in some areas, humanitarian access was seriously hampered during the reporting period in many areas of the eastern Democratic Republic of the Congo where military operations were ongoing. In Ituri, access for humanitarian actors generally improved, except in the southern part of Irumu territory, where FPJC and FRPI militias were very active throughout the reporting period. In Haut and Bas Uélé, humanitarian access to affected populations beyond the Dungu area remained a challenge owing to minimal road infrastructure and volatile security conditions. For example, on 15 March 2009 an attack on the Bas Uélé village of Banda led to the departure of a non-governmental organization providing medical care after the organization's base was entirely looted. Conditions improved in the second half of 2009, however, with additional MONUC deployment in the area. In the Kivus, Operation Kimia II significantly complicated access to

affected populations for humanitarian actors. Furthermore, the military operations pushed FDLR into remote areas, which subsequently led to the displacement of communities to areas that are more and more difficult to reach.

47. Humanitarian workers were increasingly the victims of security incidents. In 2009, the Office for the Coordination of Humanitarian Affairs recorded 145 security incidents involving humanitarian actors in North Kivu and 32 in South Kivu, which represents a substantial increase compared with 2008. FARDC was allegedly responsible for 33 per cent of all incidents, while 8 per cent were attributed to non-State armed groups. Overall, there has been an increase in security incidents directly affecting humanitarian workers in North Kivu, South Kivu and, to a lesser extent, in Oriental Province. Both United Nations and non-governmental organization convoys, and international and national staff, were targeted. Non-governmental organizations were overwhelmingly the main target in rural areas, where United Nations organizations have less access because of security restrictions. International non-governmental organizations tended to be more affected, but there were also a few cases of attacks against local non-governmental organizations. The support of MONUC to FARDC also seems to have led to negative perceptions of United Nations humanitarian organizations, and incidents of targeting escorted United Nations humanitarian convoys were reported. For example, on 22 April 2009 four staff members of a child protection international non-governmental organization were attacked in Fizi territory, South Kivu, by unidentified armed men, leaving two staff members seriously injured by gunfire. In one particularly grave incident on 17 October 2009, thousands of civilians who had gathered at seven different sites in North Kivu for measles shots were trapped when fighting broke out between FARDC and FDLR; children and their families were forced to flee into the bush. The medical aid organization undertaking the vaccination campaign declared that the gatherings were specifically targeted.

IV. Follow-up to the conclusions of the Security Council Working Group on Children and Armed Conflict and to the previous recommendations of the Secretary-General

A. Dialogue and action plans

48. Capitalizing on the fast-track integration process and the signing of the 23 March agreement, MONUC initiated a dialogue with the Government of the Democratic Republic of the Congo to prepare an action plan to end the recruitment and use of children by FARDC and to release all children still within its ranks. The Government was first approached in March 2009, and the Minister of Defence and the FARDC chief of staff reached a verbal agreement that they would cooperate. When my Special Representative for Children and Armed Conflict visited the Democratic Republic of the Congo in April 2009, she met with Government officials, including the Minister of Defence, who reiterated their readiness to continue dialogue with the United Nations on that issue. An initial plan was drafted and submitted formally to the Government in July 2009. At the time of submission of the present report, however, the Government had yet to formally engage in the process.

49. In the meantime, the main aspects of the action plan have been mainstreamed into ongoing dialogues and strategies for MONUC support to FARDC. For instance, Operation Kimia II provided an opportunity for MONUC to make logistical military support conditional on the absence of children in the FARDC integrated brigades and to discourage the recruitment and use of children in armed forces and groups. Thus, the Child Protection Section of MONUC was able to obtain from the higher military command of Operation Kimia II directives for the release of all children ordering all commanders to cooperate. This support, in some cases, facilitated access to children for their release despite what seemed to be a weak chain of command over the newly integrated brigades. For example, in February 2009, MONUC was able to obtain information about the presence of children in some of the first battalions integrated at Rumangabo, North Kivu, which were deployed immediately for military operations against FDLR at Tongo. Through the military hierarchy and intervention with the Governor of North Kivu, the Child Protection Section was able to negotiate the separation of 20 children before military operations started.

50. Similarly, in the framework of military Operation Rudia II against LRA, MONUC received good cooperation from FARDC for the screening of the 93rd brigade, deployed in Oriental Province, resulting in the separation of 42 children by the end of 2009.

B. Advocacy and programmatic response

1. Release and reintegration of children

51. Despite the challenges described above, the fast-track integration process presented a unique opportunity for many children who had been re-recruited several times, and had often spent many years with those armed groups, to formally separate from the military and obtain assistance from child protection actors. MONUC, the United Nations Children's Fund (UNICEF) and child protection partners were able to separate more children in two and a half months than during the whole of 2008. Overall, the number of children separated more than tripled in 2009 compared with 2008.

52. During the reporting period, 3,180 children (3,004 boys and 176 girls) were separated or escaped from armed forces or groups and were handed over to reintegration programmes. North Kivu accounted for the highest number of children separated from armed forces and groups (79 per cent), followed by South Kivu (11 per cent), Oriental Province (6 per cent), Katanga (2.5 per cent) and Maniema (1.4 per cent). Of the children separated from armed forces and groups, 129 were foreigners (111 from Rwanda, 9 from Burundi, 3 from Sudan, 5 from the Central African Republic and 1 from Uganda). All of them have been repatriated.

53. Of the children separated during the reporting period, 35 per cent had allegedly been recruited by various Mai-Mai groups, 27 per cent by PARECO, 22 per cent by FARDC, 11 per cent by FDLR, 15 per cent by non-integrated elements of CNDP and 4 per cent by LRA. The number of children separated from FDLR (272) and Mai-Mai groups (856) increased substantially compared with 2008.

54. Most of the children were separated during the fast-track integration process, when armed groups integrated into FARDC. Between 28 January and 18 April 2009

in North Kivu alone, child protection actors facilitated the separation of more than 1,300 children from armed groups. In South Kivu, an additional 162 children were separated from their armed groups during the integration process. After the fast-track integration process and through the end of the reporting period, the Child Protection Section of MONUC and other partners continued to actively seek the separation of children from FARDC, mostly from the newly integrated brigades. One hundred and forty-six children (75 in North Kivu, 71 in South Kivu), including one girl, between the ages of 14 and 17 were thus identified and separated from FARDC during the biometric registration process led by the European Union advisory and assistance mission for security sector reform in the country between the end of September and beginning of November 2009.

55. During the reporting period, UNICEF and its partners ensured that 6,630 children (2,117 girls and 4,513 boys) benefited from reintegration programmes. Of these children, 3,572 benefited from temporary care through a mixed system of transit centres and foster families. In mid-2009, family reunification activities were put on hold in some areas of North Kivu, owing to the high risk of re-recruitment and intimidation of children formerly associated with armed forces and groups.

56. Many challenges to successful reintegration remain. Ongoing insecurity and the continued presence of former recruiters in the same area often prevented a viable reintegration into the communities. Insufficient long-term community reintegration and follow-up in the absence of a functioning formal reintegration process are also a concern with respect to the protection of former child soldiers.

2. Prevention of and response to sexual violence against children

57. On 25 November 2009, the Government of the Democratic Republic of the Congo formally adopted and launched its national strategy against gender-based violence, which was developed in collaboration with MONUC. The short- and medium-term objectives of the strategy are to strengthen the prevention of, protection against and response to sexual violence by focusing on five main strategic components: (a) combating impunity for cases of sexual violence; (b) prevention of and protection against sexual violence; (c) security sector reform and sexual violence; (d) multisectoral response for survivors of sexual violence; and (e) data collection and mapping. The security sector reform component of the strategy foresees the screening of military members reportedly responsible for human rights violations, including the six grave violations against children, and would exclude such members of the military from MONUC training and support.

58. Girls associated with armed forces and groups are barely reached by reintegration support. They represent some 15 per cent of all children associated with armed forces and groups, but only 7 per cent of those assisted by the national disarmament, demobilization and reintegration programmes. This is the result of a number of challenges, such as the fact that armed groups are more reluctant to release girls, and that girls are more reluctant to identify themselves as formerly associated with armed forces and groups because of the additional stigma they face. Girls who have been victims of sexual violence also require appropriate medical and psychological care. As a result of community outreach campaigns, UNICEF partners have managed to increase the number of girls reached by reintegration programmes and to identify girls who escaped armed groups without passing through the formal process.

59. During the reporting period, the Child Protection Section of MONUC undertook judicial follow-up in 126 cases of sexual violence against children. Of these cases, 85 were attributed to FARDC, 12 to the Police nationale congolaise, 8 to FRPI and FPJC, 3 to the Mai-Mai, 2 to FDLR, 2 to UPDF and 1 to the national intelligence agency. In at least 58 of these 126 cases, some action was taken by the authorities, and 30 perpetrators of sexual violence were convicted.

60. It is expected that, with the adoption of Security Council resolution 1882 (2009), the country Task Force on Monitoring and Reporting will invite United Nations entities and partners working on sexual violence to participate more actively in the monitoring and reporting mechanism. Discussions are ongoing to that end. In addition, information-gathering and the identification of perpetrators still remain significant challenges in the Democratic Republic of the Congo. Changes in methodologies and interviewing practices might be envisaged in order to address the requirements of resolution 1882 (2009). It is anticipated that those changes will take place in the course of the next reporting period.

3. Protection of children during military operations

61. In 2009, MONUC put in place innovative measures to protect populations from attacks by armed groups and FARDC elements during ongoing military operations. Among these measures was the temporary deployment of joint protection teams composed of staff from MONUC substantive sections, including the Child Protection Section, working in close cooperation with the MONUC military component, as well as with early warning centres and community liaison interpreters. The aim is to increase the capacity of MONUC to anticipate and prevent attacks on the population and thus better address protection needs, including the separation of children from armed forces.

4. Regional coordination regarding the recruitment and use of children

62. In follow-up to similar recommendations in country-specific reports of the Secretary-General on children and armed conflict in Uganda, the Democratic Republic of the Congo, the Sudan and the Central African Republic and to subsequent conclusions of the Working Group on Children and Armed Conflict, a cross-border coordination meeting to enhance child protection in LRA-affected countries was held in Nairobi in October 2009. Key child protection actors from the Office of the Special Representative of the Secretary-General on Children and Armed Conflict, the Department of Peacekeeping Operations, UNICEF, the United Nations High Commissioner for Refugees, the Office for the Coordination of Humanitarian Affairs and non-governmental actors discussed issues concerning information-sharing on grave violations allegedly committed by LRA, as well as strategic coordination across countries to respond to and prevent those violations. An operational plan involving all four affected countries was elaborated. It covers the process of identification of children associated with LRA, their transfer to interim care institutions and their eventual repatriation and reunification. It also elaborates key guiding principles to be taken into account during the process, such as regional monitoring and reporting strategy, sharing of information on the recruitment and use of children, and the cross-border reintegration of children.

C. Addressing impunity

1. National level

63. Important progress was made during the reporting period on legislation regarding children. On 10 January 2009, the Government of the Democratic Republic of the Congo promulgated a new law on the protection of children (Law No. 09/001). For the first time, the recruitment and use of children under the age of 18 by armed groups, armed forces and the police is now penalized with prison terms of between 10 and 20 years. Twelve out of 14 decrees still need to be adopted in order for the new law to be fully applicable. They are currently being drafted with the support of child protection partners.

64. During the reporting period, the rampant impunity for violations perpetrated against children remained worrisome. Despite the existing legal provisions, no systematic mechanism for investigating, convicting or sanctioning those responsible for grave violations against children is in place. The few perpetrators that are prosecuted and convicted often have their sentences overturned in appeal procedures or do not serve their sentences, owing to the weaknesses of the penitentiary system. Escapes of convicted perpetrators from prisons remain frequent.

65. Operation Kimia II saw the appointment of notorious perpetrators of violations in its command structure, such as Colonel Ndayambaje Nyangara Kipanga, Colonel Innocent Zimurinda, Colonel Gwigui Busogi, Colonel Innocent Kaina and Colonel Innocent Kabundi. In addition, after continuous advocacy efforts by MONUC, the FARDC hierarchy promised to remove Jean-Pierre Biyoyo from the chain of command in Operation Kimia II, but reports show that he remained within the operation.

66. On the other hand, the trial of Mai-Mai warlord Gédéon Kyungu Mutanga that started in May 2007 and ended on 5 March 2009 sent a strong message against impunity. The warlord was condemned to death by the Haut-Katanga military court.

67. On 3 June 2009, the *chambre foraine* of the Kisangani military tribunal condemned five members of a Mai-Mai group for crimes against humanity, in particular for the mass rape of more than 30 women, including eight minors, committed in July 2007 in a village in Oriental Province. Four of the members received sentences of life imprisonment, and one member was sentenced to 30 years in prison.

68. On 14 July 2009, the judicial authorities of Goma, North Kivu, planned several important trials, including three trials involving high-ranking FARDC officers and four trials involving FARDC middle-ranking officers and soldiers, all of them indicted on charges of war crimes for rape and murder.

69. In South Kivu, the Bukavu military tribunal condemned two soldiers of the FARDC 14th Integrated Brigade on 27 August 2009 for raping a 14-year-old girl, and condemned another soldier of the 10th Military Region on 8 September 2009, also for the rape of a minor.

70. Despite these few positive developments, there were concerns about due process with respect to the extraordinary jurisdictions established in the Kivus, including the military operational court established in 2008. In addition, although the law promulgated on 7 May 2009 granting amnesty to militias in the east

excludes genocide, war crimes and crimes against humanity, in practice its implementation could result in the release of perpetrators of child rights violations. One case has already been reported in South Kivu in which a police officer condemned for the rape of a girl was released on the grounds of the amnesty law.

71. In the context of the "zero tolerance" policy of the Government of the Democratic Republic of the Congo with respect to violations by FARDC elements, the FARDC commander of Operation Kimia II, General Amuli, issued a directive on 23 October 2009 on the formation of joint FARDC-MONUC commissions of inquiry to verify reported FARDC violations in the Kivus.

2. International level

72. The trial of Thomas Lubanga, the former commander-in-chief of the Forces patriotiques pour la libération du Congo and founder of the Union des patriotes congolais, who is being prosecuted by the International Criminal Court (ICC) for the enlistment, conscription and use of children under the age of 15, resumed on 29 January 2009 after being delayed by procedural matters on account of which he came very close to being released. The prosecution phase of the trial ended in mid-July 2009. The defence phase was again delayed pending the decision of judges to add charges of sexual slavery and cruel and inhumane treatment to the indictment following a joint request by 99 witnesses in May 2009. The trial resumed in January 2010.

73. The joint trial in front of ICC of Germain Katanga, commander of FRPI, and co-accused Mathieu Ngudjolo Chui, commander of FNI, started on 24 November 2009 after a one-month delay. Both accused are charged with war crimes, including using children under the age of 15 and attacking civilians, as well as murder, rape and sexual slavery as crimes against humanity.

74. Bosco Ntaganda, against whom ICC issued an international arrest warrant in April 2008 on charges of, among other things, recruitment and use of children, remains at large in North Kivu and is reported to be in continuous close contact with top CNDP commanders, most of whom integrated into FARDC.

75. In a major development, on 17 November 2009, the German Federal Police arrested Ignace Murwanashyaka, the president of FDLR, and his deputy, Straton Musoni, in Germany on charges of membership in a foreign terrorist organization and for war crimes and crimes against humanity committed in the eastern Democratic Republic of the Congo.

D. Training and capacity-building

76. In 2009, the Child Protection Section of MONUC trained a total of 4,401 elements of the Police nationale congolaise, as well as 56 officers of the criminal investigation departments and 32 judges and prosecutors, on the application of the new child protection law adopted in January 2009.

77. Additionally, 1,931 members of the national armed forces were trained on child rights and child protection issues, with a focus on child recruitment and use.

V. Recommendations

78. I remain deeply concerned about the lack of progress in the situation of children in the armed conflict in the Democratic Republic of the Congo, and I strongly reiterate the recommendations contained in my three previous reports on this subject (S/2006/389, S/2007/391 and S/2008/693). I also urge the immediate implementation of all subsequent conclusions of the Working Group on Children and Armed Conflict (S/2006/724, S/AC.51/2007/17 and S/AC.51/2009/3).

79. I urge the Government of the Democratic Republic of the Congo to meet, without further delay, its commitments to prepare and implement the action plan to end the recruitment and use of children by FARDC, including newly integrated elements. In line with Security Council resolutions 1539 (2004) and 1612 (2005), this action plan should include the immediate and unconditional release of all children still in FARDC ranks, access to all military sites and *regroupement* centres for verification by child protection actors and prevention and accountability measures against responsible individuals.

80. I also urge non-State armed groups that have not been integrated into FARDC to immediately stop the recruitment and use of children and to enter into dialogue with the United Nations to prepare and implement, as a matter of priority, action plans to cease these violations and to immediately release all children within their ranks, in line with Security Council resolutions 1539 (2004) and 1612 (2005). Dialogue on action plans should not be conditional on the cessation of hostilities or on any other peace negotiations.

81. In view of my last annual report on children and armed conflict (A/64/742-S/2010/181) and of continuing patterns of sexual violence against children, I urge FARDC, including newly integrated elements, FDLR, FRPI, FNI, LRA and Mai-Mai groups in North and South Kivu, including PARECO, to enter into dialogue with the United Nations to prepare and implement action plans to halt sexual violence against children, in line with Security Council resolution 1882 (2009), bearing in mind the national strategy to combat sexual violence in the Democratic Republic of the Congo. Compliance with resolutions of the Security Council and the implementation of all requested action plans would lead to de-listing from the annexes of my annual reports.

82. I strongly encourage the Government of the Democratic Republic of the Congo to put an end to impunity and to ensure that all individuals responsible for grave violations against children are held accountable. This should include the accelerated adoption of the remaining decrees for the implementation of the national law on the protection of children promulgated on 10 January 2009, the adoption of the law for the reform of the national police and the reinforcement of the capacities of the military judicial system to investigate and prosecute all perpetrators of child rights violations, including high-level commanders. I also recommend to the Government of the Democratic Republic of the Congo that it take all necessary measures to ensure that the amnesty law adopted on 7 May 2009 is strictly interpreted so that the perpetrators of war crimes and crimes against humanity do not benefit from amnesty.

83. In line with the conditionality policy described in Security Council resolution 1906 (2009), logistical and technical support of MONUC to FARDC in all current and upcoming military operations may be provided only if the operations are

conducted in compliance with international law, including child rights norms, and with Security Council resolutions on children and armed conflict. Bearing this in mind, I urge the Government of the Democratic Republic of the Congo to withdraw all perpetrators of child rights violations, irrespective of their rank, from the military chain of command and hold them accountable for their crimes against children, including recruitment and use and sexual violence against children.

84. FARDC, with the support of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), should devise standard operating procedures to ensure that children are protected in the course of military operations. These procedures should include joint military-civilian assessment of the security risk for the population prior to any military action, refraining from engaging in combat in highly populated areas, protecting schools and hospitals and undertaking post-operation evaluations of the military impact on civilians, including children. Further, standard operating procedures should be developed for the treatment of captured child soldiers in accordance with international humanitarian and human rights law and for promptly handing them over to child protection partners for appropriate care.

85. Pursuant to Security Council resolution 1906 (2009), I recommend to the Government of the Democratic Republic of the Congo that it develop, along with the Governments of the Central African Republic, Uganda and the Sudan, a regional strategy in line with international humanitarian and human rights law to deal with LRA, including on how to address the violations and abuses committed against children, taking into account existing regional mechanisms. The United Nations will support such efforts.

86. I call upon the Government of the Democratic Republic of the Congo to build on existing initiatives for the reinsertion of children formerly associated with armed forces and groups and, in compliance with the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (Paris Principles), take the lead in putting in place long-term community-based reintegration programmes, aiming at preventing (re-)recruitment and other grave child rights violations. In particular, the Government of the Democratic Republic of the Congo is encouraged to use the security sector reform process to address the needs of young people formerly associated with the armed forces and armed groups in the Democratic Republic of the Congo.